

FCC MAIL SECTION

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Federal Communications Commission

DA 99-1234

JUN 29 11 06 AM '99

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),	)	MM Docket No. 99-233
Table of Allotments,	)	RM-9662
FM Broadcast Stations.)	
(Graham, Texas))	
)	
(Hunt, Texas)	)	MM Docket No. 99-234
	)	RM-9645
)	
(Ingram, Texas)	)	MM Docket No. 99-235
	)	RM-9643
)	
(Madisonville, Texas)	)	MM Docket No. 99-236 ✓
	)	RM-9644
)	
(Medina, Texas)	)	MM Docket No. 99-237
	)	RM-9663

NOTICE OF PROPOSED RULE MAKING

Adopted: June 16, 1999

Released: June 25, 1999

Comment Date: August 16, 1999

Reply Date: August 31, 1999

By the Chief, Allocations Branch

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve

Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MM Docket No. 99-233, RM-9662

Petitioner: Graham Tollway Broadcasting Company

c/o Audrey P. Rasmussen
O'Connor & Hannan, L.L.P.
1919 Pennsylvania Avenue, NW, Suite 800
Washington, D. C. 20006

Proposal: Allot Channel 253A at Graham, Texas, providing additional broadcast service to the community.

Community	Present	Proposed
Graham, Texas	296C3	253A, 296C3

Coordinates: 33-02-30 NL and 98-39-00 WL

Additional Information: Channel 253A can be allotted to Graham with a site restriction. 9.2 kilometers (5.7 miles) west of the community. Graham is an incorporated community with its own post office and zip code (76450) and has a population of 8,986 people according to the 1990 U.S. Census. Graham is the County Seat for Young County.

FCC Contact: Kathleen Scheuerle, (202) 418-2180

B. MM Docket No. 99-234, RM-9645

Petitioner: Hunt Radio Broadcasting

c/o Robert Lewis Thompson
Taylor Thiemann & Aitken, L.C.
908 King Street, Suite 300
Alexandria, Virginia 22314

Proposal: Allot Channel 260A at Hunt, Texas, as the community's first local broadcast service.

Community	Present	Proposed
Hunt, Texas	-----	260A

Coordinates: 30-07-18 NL and 99-25-39 WL

Additional Information: Channel 260A can be allotted to Hunt provided there is a site restriction 10.7 kilometers (6.6 miles) northwest of the Community. Mexican concurrence will be requested for this allotment since Hunt is located within 320 kilometers of the U.S.-Mexican border. According to the 1998 Rand McNally Commercial Atlas and Marketing Guide, Hunt has a population of 600 people with a post office and zip code (78024). Parties filing comments are requested to present the Commission with specific information to demonstrate that Hunt has the social, economic and governmental indicia to qualify it as a "community" for allotment purposes. See Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991) and cases cited therein. Failure to provide the requested information will result in a denial of the proposal.

FCC Contact: Kathleen Scheuerle, (202) 418-2180

C. MM Docket No. 99-235; RM-9643

Petitioner: Ingram Radio Broadcasting Company

c/o Robert Lewis Thompson
Taylor Thiemann & Aitken, L.C.
908 King Street, Suite 300
Alexandria, Virginia 22314

Proposal: Allot Channel 243A at Ingram, Texas, as the community's first commercial broadcast service.

Community	Present	Proposed
Ingram, Texas	-----	243A

Coordinates: 30-04-30 NL and 99-14-06 WL

Additional Information: Channel 243A can be allotted to Ingram without a site restriction. Since Ingram is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government will be requested for this allotment. Additionally, we find that Ingram is an incorporated community with a population of 1,408 people according to the 1990 U.S. Census. Ingram is located in Kerr County and has its own post office and zip code (78025).

FCC Contact: Kathleen Scheuerle, (202) 418-2180

D. MM Docket No. 99-236, RM-9644

Petitioner: Leon Hunt d/b/a Hunt Broadcasting

c/o Leon Hunt
102 West Main Street
Madisonville, Texas 77864

Proposal: Allot Channel 267A at Madisonville, Texas, as the community's third local FM transmission service.

Community	Present	Proposed
Madisonville, Texas	241C2, 263C3	241C2, 263C3, 267A

Coordinates: 31-01-20 NL and 95-55-00 WL

Additional Information: The channel can be allotted to Madisonville provided there is a site restriction 8.09 kilometers (5.0 miles) north of the community. Although petitioner's request was signed, he failed to include an affidavit verifying that the statements contained in the petition were accurate to the best of his knowledge. Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel shall be signed and verified by the party and his/her address stated. In the absence of such verification the petition may be dismissed. Section 1.401(b) of the Commission's Rules concerning rule making proceedings places petitioners on notice that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. See also Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes, 5 FCC Rcd 3911, n.41 (1990). Hunt is requested to rectify this omission in his comments.

FCC Contact: Kathleen Scheuerle

E. MM Docket No. 99-237, RM-9663

Petitioner: Medina Radio Broadcasting Company

c/o Robert Lewis Thompson
Taylor Thiemann & Aitken, L.C.
908 King Street, Suite 300
Alexandria, Virginia 22314

Proposal: Allot Channel 296A to Medina, Texas, as the community's first local broadcast service.

Community	Present	Proposed
Medina, Texas	-----	296A

Coordinates: 29-47-41 NL and 99-15-27 WL

Additional Information: There is a site restriction .9 kilometers (.6 miles) west of the community. Since Medina is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government will be requested for the allotment of Channel 296A at Medina, Texas. Additionally, we find that Medina is located in Bandera County with its own post office and zip code (78055). According to the 1998 edition of the Rand McNally Commercial Atlas and Marketing Guide, Medina has a population of 350 people. Parties filing comments are requested to present the Commission with specific information to demonstrate that Medina has the social, economic and governmental indicia to qualify it as a "community" for allotment purposes. See Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991) and cases cited therein. Failure to provide the requested information will result in dismissal of the proposal.

FCC Contact: Kathleen Scheuerle, (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference **only** the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before August 16, 1999, and reply comments on or before August 31, 1999, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b) and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement.

Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau**

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, **IT IS PROPOSED TO AMEND** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, 445 Twelfth Street, S. W.; TW-A325, Washington, D. C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters, Washington, D. C.